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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,797	11/20/2003	Yoichiro Yamanaka	00663D/HG	3087
1933	7590	06/14/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 5TH AVE FL 16 NEW YORK, NY 10001-7708			GOFF II, JOHN L	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/719,797	YAMANAKA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	John L. Goff	1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 November 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
  - 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 November 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. 09/665,323.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/20/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I (appears to read on claims 1-4) directed to an interior polypropylene film.

Species II (appears to read on claims 1-4) directed to an interior polypropylene ethylene random copolymer film.

Species III (appears to read on claim 5) directed to an interior polyester film.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are no generic claims.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Marshall Chick on 5/25/05 a provisional election was made with traverse to prosecute the invention of Species III, claim 5. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-4 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### *Claim Objections*

4. Claim 5 is objected to because of the following informalities: In claim 5, line 2 after "sheet for" insert - - a - -. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al. (U.S. 6,277,455) optionally in view of Kobiella (U.S. Patent 4,661,185).

Shimizu et al. disclose a method of bonding a polyester film (e.g. biaxially oriented) with a metal sheet to form the interior of a can wherein the method comprises providing a metal sheet, providing a polyester film, heating the metal sheet above the melting point of the polyester film, passing the polyester film and heated metal sheet through a pair of rolls to melt-bond the polyester film to the heated metal sheet to form a laminate, and immediately thereafter cooling the laminate (Column 1, lines 10-15 and Column 8, lines 14-19). Shimizu et al. do not specifically teach the melt-bonding of the polyester sheet occurs between 1 and 20 msec before the laminate is cooled. However, Shimizu et al. clearly teach the heated metal plate melts the

polyester film by passing through nip rolls, the laminate is cooled immediately following melt-bonding, and the cooling treatment affects the molecular maneuverability, e.g. orientation, of the polyester, i.e. the molecular maneuverability of the polyester film may be controlled following melt-bonding (Column 2, lines 27-30 and Column 8, lines 14-19 and 31-32). Thus, it appears intrinsic to the process taught by Shimizu et al. that the melt-bonding occurs over a period of 1 to 20 msec as the materials and process steps taught by Shimizu et al. are the same as those claimed and disclosed by applicants specification and applicants specification specifically notes if melt-bonding occurs over a period less than 1 msec the polyester film and metal sheet do not melt bond and if melt-bonding occurs over a period greater than 20 msec the polyester film does not retain molecular maneuverability. In any event, it would have been obvious to one of ordinary skill in the art at the time the invention was made to experimentally determine/optimize the melt-bonding time in Shimizu et al. as a function of the melt-temperature, the depth of melting desired, the bonding pressure applied, etc. as doing so would have required nothing more than ordinary skill and routine experimentation wherein only the expected results would be achieved, i.e. forming the best possible melt-bonded laminate, it being noted experimentally determining/optimizing the melt-bonding time for polyester film in this manner was well known in the art as shown for example optionally by Kobiella wherein Kobiella suggest as exemplary a melt-bonding time of about 15 to about 25 milliseconds.

Kobiella is exemplary in the art of melt-bonding polyester film wherein the time required for melt-bonding is determined as a function of the melt-temperature, the depth of melting desired, the bonding pressure applied, etc. wherein an exemplary range of about 15 to about 25 milliseconds is suggested (Column 10, lines 61-68 and Column 11, lines 1-10).

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami et al. (U.S. 5,424,121) optionally in view of Kobiella.

Murakami et al. disclose a method of bonding a polyester film (e.g. biaxially oriented) with a metal sheet to form the interior of a can wherein the method comprises providing a metal sheet, providing a polyester film, heating the metal sheet above the melting point of the polyester film, melt-bonding the polyester film to the heated metal sheet to form a laminate, and immediately thereafter cooling the laminate (Column 1, lines 6-13 and Column 7, lines 38-51). Murakami et al. do not specifically teach the melt-bonding of the polyester sheet occurs between 1 and 20 msec before the laminate is cooled. However, Murakami et al. clearly teach the heated metal plate melts the polyester film, the laminate is cooled immediately following melt-bonding, and the cooling treatment affects the molecular maneuverability, e.g. amorphous, of the polyester, i.e. the molecular maneuverability of the polyester film may be controlled following melt-bonding (Column 7, lines 38-51). Thus, it appears intrinsic to the process taught by Murakami et al. that the melt-bonding occurs over a period of 1 to 20 msec as the materials and process steps taught by Murakami et al. are the same as those claimed and disclosed by applicants specification and applicants specification specifically notes if melt-bonding occurs over a period less than 1 msec the polyester film and metal sheet do not melt bond and if melt-bonding occurs over a period greater than 20 msec the polyester film does not retain molecular maneuverability. In any event, it would have been obvious to one of ordinary skill in the art at the time the invention was made to experimentally determine/optimize the melt-bonding time in Murakami et al. as a function of the melt-temperature, the depth of melting desired, the bonding pressure applied, etc. as doing so would have required nothing more than ordinary skill and

routine experimentation wherein only the expected results would be achieved, i.e. forming the best possible melt-bonded laminate, it being noted experimentally determining/optimizing the melt-bonding time for polyester film in this manner was well known in the art as shown for example optionally by Kobiella wherein Kobiella suggest as exemplary a melt-bonding time of about 15 to about 25 milliseconds.

Kobiella is described above in full detail.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571) 272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John L. Goff

  
JEFF H. AFTERGUT  
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